

# EXHIBIT 1



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IN THE MATTER OF

MOBILITY WORKX, LLC

vs.

CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS

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1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: We're now on the record.

3 My name is Dan McDonald. I am the videographer retained  
4 by Lexitas. Today's date is September the 6th, 2019. The  
09:12AM 5 video time is 9:12 a.m.

6 This deposition is being held in Dallas,  
7 Texas, in the matter of Mobility Workx, LLC vs. Cellco  
8 Partnership d/b/a as Verizon Wireless. The deponent is  
9 Dr. Sukumaran Nair.

09:12AM 10 If counsel will introduce themselves and  
11 who they represent, then our court reporter, Kat Baker,  
12 will swear the witness in.

13 MR. BARTON: This is Ross Barton from  
14 Alston & Bird on behalf of Verizon Wireless.

09:12AM 15 MR. MACHAT: This is Michael Machat on  
16 behalf of plaintiff, Mobility Workx.

17  
18 SUKUMARAN NAIR,  
19 having been first duly sworn, testified as follows:

09:12AM 20 EXAMINATION

21 Q. (BY MR. BARTON) Good morning, Dr. Nair.

22 A. Good morning.

23 Q. Have you ever had your deposition taken before?

24 A. Yes.

09:13AM 25 Q. When was that?

1 witness report from the other side, Mr. Proctor, I  
2 believe. Yes, I have seen those documents.

3 Q. Well, you actually -- you rendered your opinions  
4 on infringement before --

09:22AM 5 A. Before, yeah.

6 Q. Okay. Make sure you give me a chance to finish  
7 my question, okay?

8 A. Sure.

9 Q. I guess what I am trying to get at, Dr. Nair, is  
09:23AM 10 that your report seems to rely exclusively, as far as I  
11 can tell, on publicly available documents; is that fair?

12 A. The initial report, yes, unless there are any --  
13 any references made to any other documents. I cannot  
14 remember because it has been a long time now. You know,  
09:23AM 15 it started somewhere in spring, if I remember.

16 Q. Okay. Were there any documents that you wanted  
17 in order to render your opinions that you did not have  
18 access to?

19 A. I think I got everything that I needed.  
09:23AM 20 Whenever I needed some information, I asked Michael, and  
21 then whenever possible, he has offered those documents.

22 Q. Okay. So just to be clear, in rendering your  
23 opinions in Exhibit 1 on infringement, there was nothing  
24 that you -- you asked for that you felt you needed that  
09:24AM 25 you did not get; is that fair?

1           A.    I could -- I could render my opinion with the  
2   information I had at that time.   And then in -- in any  
3   decision-making, if you get more information, I can -- I  
4   can point to more evidences.   That is all.

09:24AM 5           Q.    Okay.   But -- but at no point did you say, you  
6   know, I can't take this position or I can't take that  
7   position because I don't have the information I need?

8           A.    I don't remember having that -- that kind of a  
9   predicament.

09:24AM 10          Q.    Okay.   Now, turn to -- well, actually turn to  
11   page 4 of Exhibit 3.

12          A.    Exhibit 3, page 4.   Yeah.

13          Q.    And you see paragraph 16?   It's under the  
14   heading, Materials Considered?

09:24AM 15          A.    Yes.

16          Q.    All right.   And then it says, My opinions are  
17   based on my experience in this field and are necessarily  
18   formed by my own experiences, materials I've read over the  
19   years and discussions I have had with my colleagues -- or  
09:24AM 20   with colleagues during my career.   In addition, I have  
21   reviewed and considered the materials identified in  
22   Exhibit B in forming my opinions discussed herein.   And I  
23   have had discussions with Drs. Helal and Hernandez  
24   regarding the patents in suit, the genesis of the  
09:25AM 25   inventions claimed therein, the asserted claims of the

1 understanding of this space will say, yeah, that means  
2 Verizon is allowing its customer, by way of using the  
3 network, infringing onto the claim.

4 Q. So your theory that the customers and end users  
10:53AM 5 are infringing is based on their access to and use of the  
6 Verizon network?

7 A. No, I don't think I'm saying customers are  
8 infringing it. Customers do not even know what goes on  
9 behind -- after the phone -- they don't even know what  
10:53AM 10 happens in their phone.

11 Q. Let me read your words --

12 A. They are just using the services.

13 Q. Let me read your words to you again, okay?

14 It is my opinion that Verizon actively  
10:53AM 15 induces its customers and end users who use the Verizon  
16 LTE network to infringe at least the asserted claims of  
17 the '417 Patent.

18 So is it your opinion that Verizon induces  
19 its customers to infringe; yes or no?

10:54AM 20 A. This is, as I said in this report, that is my  
21 opinion I derived based upon my consult with Mr. Machat.

22 Q. Do you have any understanding as you sit here  
23 today, sir, as to what it means to induce infringement?

24 A. I would say, as I said, I will not opine on  
10:54AM 25 that.

1 Q. So you don't know what that means?

2 A. I don't know what that means.

3 Q. Okay. So why did you say it in your report?

4 A. Because when I said this is what I see, this is  
10:54AM 5 my technical opinion, then he said what it means is this  
6 is the legal wording for that. And then I trust my  
7 counsel, and then I put that, okay, if that is the legal  
8 understanding of it, I can put it there. I believe in  
9 that. But, you know, when you ask a question, I don't  
10:55AM 10 want to legally be liable to make that opinion without,  
11 you know, having a legal background. I want to stay in my  
12 lane.

13 Q. Okay. Do you believe that Verizon directly  
14 infringes the claims of the '417 Patent?

10:55AM 15 A. Again, as I said, when I say Verizon, Verizon  
16 gets services and its components from so many different  
17 vendors. And as a whole system, the system infringes.

18 Q. Okay.

19 A. So as far as I can tell you, Verizon is the  
10:55AM 20 front end of that network. Verizon is the one who is  
21 providing this network services. And then I am saying  
22 Verizon is infringing. So whether it is direct, indirect,  
23 it is for you-all to decide, because I don't even know who  
24 are the vendors.

10:55AM 25 And, for example, I don't know what kind of

1           A.    I -- even when I did not write I was telling  
2   those details to Michael and produced me the text,  
3   because, you know, the time constraints.

4           Q.    Okay. So I want you to explain to me what it  
02:34PM 5   means to symbolize and interpret the true nature of drive  
6   testing. What does -- what do -- how -- how does that  
7   photograph interpret the true nature of drive testing?

8           A.    When somebody sees this photograph immediately  
9   they start remembering that ad that comes on the TV,  
02:34PM 10   right.

11          Q.    Did -- did the ad mention drive testing?

12          A.    No.

13          Q.    Do you know when the ad started?

14          A.    I don't remember.

02:34PM 15          Q.    Do you know if the ads continued after Verizon  
16   used the --

17          A.    I --

18          Q.    -- the -- hold on.   Hold on.

19                           Do you know if the ads continued after  
02:34PM 20   Verizon began using the accused system simulator?

21          A.    I don't know.

22          Q.    Do you know if the ads began before Verizon  
23   started using the accused system simulator?

24          A.    No idea.

02:35PM 25          Q.    Do you have any facts to tie that ad to